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UNCLAS GUATEMALA 001555

SIPDIS

SENSITIVE

DEPARTMENT FOR WHA/CEN AND DRL/IL

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SUBJECT: PAYMENTS TO EX-PACS RULED UNCONSTITUTIONAL

1. (U) Summary: The Constitutional Court (CC) ruled on June 21 that payments to the ex-civil self defense patrollers (ex-PACs), authorized by the government of former President Alfonso Portillo, were unconstitutional. After a week of public threats against the Court, the reaction to the ruling from ex-PAC groups was relatively muted. Some declared the start of a new 30-day deadline for payment. Others will meet this weekend. Opposition leader Otto Perez Molina introduced legislation in Congress to authorize the payments. Although the Court decision gave the Berger government an opportunity to back away from its commitment, President Berger promptly reaffirmed it, defusing threats of violent protest. End Summary.

#### Background

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2. (U) The CC determined that Portillo's November, 2003 executive decree authorizing three payments of \$218 to over 500,000 ex-PACs required Congressional approval. The Portillo government authorized and paid the first tranche of payments during the electoral campaign last year. During the 2003 presidential campaign, candidate Berger said that he supported payments to the ex-PAC. The payments were legally challenged by human rights groups in 2003 and suspended by the court in January.

3. (U) The CC's 6-1 decision came after Court President Cipriano Soto and Magistrate Guillermo Ruiz Wong, both FRG allies, recused themselves from the case. The lone supporter of the ex-PAC payments on the CC was Francisco Palomo, another FRG magistrate allied with FRG leader Efraim Rios Montt. The press reported that non-FRG magistrates received intimidating phone calls before the hearing.

#### Government Response

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4. (U) In response to the CC decision, President Berger reaffirmed his administration's determination to make the payments, and announced that Deputy Peace Secretary Eduardo Aguirre will coordinate a committee to define the form of payment. Berger said he would prefer the payments to go to projects to support ex-PACs in their communities rather than to individuals, but said the government would await Congressional action before making a final determination.

5. (U) Opposition leader Otto Perez Molina introduced legislation to Congress on June 22 which would authorize the payments. He was accompanied by ex-PAC representatives to the session, and had publicly called for the ex-PACs to refrain from protest pending Congressional action, which he predicted would be swift.

#### Ex-PAC Reaction

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6. (U) After issuing a series of vague threats against the court in the run-up to the negative ruling, ex-PAC reaction to the decision was muted. (Note: the ex-PAC are divided geographically and by no means monolithic.) A threatened occupation of the Court did not materialize on June 22. Instead, ex-PAC leaders from the southwestern region announced a new 30-day deadline for payment. Groups in the highlands announced a meeting June 26 in Panajachel, Solola province.

#### Comment

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7. (SBU) Initial fears that the CC ruling would provoke an angry ex-PAC reaction have diminished considerably. In the past, ex-PACs had burnt tires, blocked roads and airports and taken hostages when disgruntled, but had generally refrained from violence. The risk of violence subsided considerably with the announcement of the new 30-day deadline (all past deadlines have been extended), Perez Molina's Congressional action, and Berger's signal of support. The Berger government has clearly decided against using the Court decision to renege on its commitment to compensate the ex-PACs in some way.

HAMILTON